

# ZONING BOARD OF APPEALS

October 2, 2008

**Members Present:** Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard.

**Members Absent:** None.

**Others Present:** Maxine Notaro (Permit Coordinator) and Ellen C. Battaglini (Recording Secretary).

## WORK SESSION

Chair Patrick Eeley called the Work Session to order at 6:45 P.M.

**MINUTES: September 18, 2008** – *Anne Howard moved to approve the language as amended, Robert Littlefield seconded and it was so voted, 4-0-1 (Patrick Eeley abstaining).*

The Board briefly discussed the roof configuration on the structure located at 9 Carnes Lane. The Board decided to request that the Building Commissioner visit the site to determine whether or not the roof configuration, as built, conforms to the plans as approved by the Board.

Chair Patrick Eeley postponed the Work Session at 7:00 P.M.

## PUBLIC MEETING

Chair Patrick Eeley called the Public Meeting to order at 7:00 P.M. There were five members of the Zoning Board of Appeals present and none absent.

### POSTPONED CASES:

**2008-46**      **415 Commercial Street (Residential 3 Zone), Robert Valois on behalf of Warren Cresswell**  
*(postponed from September 18, 2008) –*

The applicant seeks a Special Permit under Article 3, Section 3101 of the Zoning By-Laws to extend a pre-existing, non-conforming structure up and along a non-conforming side dimension (west) with a one-story addition without intruding further into the setback area. Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.

**Presentation:** Robert Valois appeared to present the application. The applicant seeks to put a 13' by 18' one-story addition on the north side of the structure. There is an existing 10' by 10' deck on the north side, therefore the addition will extend 8' beyond that. The shed roof on the west side will be raised by a foot to allow for adequate head room.

**Public Comment:** None. There were no letters in the file.

**Board Discussion:** The Board questioned Mr. Valois.

*Elisabeth Verde moved to grant a Special Permit under Article 3, Section 3101 of the Zoning By-Laws to extend a pre-existing, non-conforming structure up and along a non-conforming side dimension (west) with a one-story addition without intruding further into the setback area at the property located at 415 Commercial Street (Res 3), Anne Howard seconded and it was so voted, 5-0. Anne Howard will write the decision.*

**2008-47**      **1 Tremont Street (Town Commercial Center Zone), Robin B. Reid, Esq. on behalf of One Tremont Street Nominee Trust**  
*(postponed from September 18, 2008) –*

The applicants seek a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to extend a pre-existing, non-conforming structure along the non-conforming dimensions without intruding further into the existing setbacks. Anne Howard recused herself because of a conflict of interest. Patrick Eeley explained that since there were only four members seated on the Board that the vote to grant a Special

Permit would need to be unanimous. The applicants agreed to proceed with the application.

**Presentation:** Attorney Robin B. Reid, Deborah Paine, Scott O'Connor and Tom Fielding appeared to present the application. Attorney Reid explained that there were two proposed changes to a plan that the Board had previously approved in November of 2007. A change to the height of the roof is necessary because the contractor discovered that there would not be adequate head room in the proposed bedroom if built according to the approved plans. Thus the height of the roof will be increased from 25' 10" to 27' 9", so as to remedy that oversight. The dormer configuration has also been revised from a clipped to a full dormer, and there will only be one dormer instead of two as previously proposed.

**Public Comment:** Russ Sanderson, a direct abutter, spoke in favor of the application. There was one letter in the file against the application.

**Board Discussion:** The Board questioned Attorney Reid and Ms. Paine.

*Amy Germain moved to approve a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to extend a pre-existing, non-conforming structure along the non-conforming dimensions without intruding further into the existing setbacks for the property located at 1 Tremont Street (TCC), Robert Littlefield seconded and it was so voted, 4-0.* Patrick Eeley will write the decision.

## NEW CASES:

**2008-48** **361 Commercial Street (Town Commercial Center Zone), T and Celine Gandolfo/Tonga Trust –** The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter a pre-existing, non-conforming structure on a pre-existing, non-conforming lot by adding a single-family residence on the second floor. Amy Germain disclosed that she takes minutes for the Board of WOMR, of which T Gandolfo is a member, but feels she can render a fair decision and she has no financial stake in the outcome of the case. Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.

**Presentation:** Attorney Lester J. Murphy, T Gandolfo and Celine Gandolfo appeared to present the application. The applicants seek to add a single-family residential use to the second floor of the structure. The current second floor use is as an office/storage space, while the first floor is a retail space. There will be no exterior changes to the building. Attorney Murphy explained that up until the early 1990s, there was a residential unit on the second floor. When the building was re-built at that time, the residential unit had to be discontinued because the capacity of the new septic system that was installed would not allow for both a retail and a residential space. The property has received additional gallonage for a one-bedroom unit as a result of an EDC permit, however there is a requirement that the residential space be used in conjunction with the retail space. At the recommendation of the Building Commissioner, in order to re-establish the residential use on the property, the applicants needed a Special Permit. Attorney Murphy argued that the re-establishment of this use will not be more detrimental to the neighborhood.

**Public Comment:** A trustee of the abutting Mews Condominium Trust spoke against the application. There were two letters in the file in favor of the application.

**Board Discussion:** The Board questioned Attorney and Mr. Gandolfo.

*Patrick Eeley moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter a pre-existing, non-conforming structure on a pre-existing, non-conforming lot by adding a single-family residence on the second floor of the property located at 361 Commercial Street (TCC), Amy Germain seconded and it was so voted, 5-0.* Robert Littlefield will write the decision.

**2008-49** **252 Commercial Street (Town Commercial Center Zone), Robert Valois –** The applicant seeks a Special Permit under Article 3, Section 3110 of the Zoning By-Laws to alter a pre-existing, non-conforming structure on a pre-existing, non-conforming lot by adding an additional dwelling unit. Patrick Eeley, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.

**Presentation:** Robert Valois and Vincent Duarte appeared to present the application. The applicant seeks to extend an existing use in the building by adding a dwelling unit on the first floor where there is an existing storage area. There is also an existing retail space on the first floor and an existing residential unit on the second and third floor of the building. There is nothing being added to the building.

**Public Comment:** None. There were no letters in the file.

**Board Discussion:** The Board questioned Mr. Valois and Mr. Duarte.

*Robert Littlefield moved to grant a Special Permit under Article 3, Section 3110 of the Zoning By-*

*Laws to alter a pre-existing, non-conforming structure on a pre-existing, non-conforming lot by adding an additional dwelling unit at the property located at 252 Commercial Street (TCC), Amy Germain seconded and it was so voted, 5-0. Elisabeth Verde will write the decision.*

Chair Patrick Eleey adjourned the Public hearing at 8:20 P.M.

## WORK SESSION

Chair Patrick Eleey re-convened the Work Session at 8:20 P.M.

### CONTINUED CASES:

**2008-44**      **12 Somerset Road (Residential 1 Zone), Mark P. Kinnane of Cape Associates on behalf of Jerry Albright –**

The applicant seeks a Special Permit under Article 3, Section 3340E of the Zoning By-Laws for a deviation in building scale for the construction of an addition exceeding the allowable scale. Patrick Eleey, Elisabeth Verde, Robert Littlefield, Amy Germain and Anne Howard sat on the case.

**Presentation:** Mark Kinnane appeared to discuss the application. After obtaining plans for the houses in the Somerset Road neighborhood, Mr. Kinnane re-calculated the building scale figures for most of the houses in that neighborhood, which he then presented to the Assessor's Office. After examining his calculations, the Assessor's Office agreed with most of Mr. Kinnane's calculations. He then submitted the new calculations to the Board.

**Board Discussion:** The Board questioned Mr. Kinnane.

*Anne Howard moved to grant a Special Permit under Article 3, Section 3340E of the Zoning By-Laws for a deviation in building scale for the construction of an addition exceeding the allowable scale for the property located at 12 Somerset Road (Res 1), Patrick Eleey seconded and it was so voted, 2-3 (Amy Germain, Elisabeth Verde, Robert Littlefield opposed).* The motion is defeated. Patrick Eleey will write the decision.

**NEXT MEETING:** The next meeting will take place on October 16, 2008. It will consist of Work Session at 6:30 P.M. followed by a Public Hearing at 7:00 P.M.

**ADJOURNMENT:** *Amy Germain moved to adjourn at 9:00 P.M. and it was so voted unanimously.*

These minutes were approved by a vote of the Zoning Board of Appeals at their meeting on October 16, 2008.

Respectfully submitted,  
Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2008  
Patrick Eleey, Chair